

REMARKS

Applicants thank the Examiner for the through consideration given the present application. Claims 1-22 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

Rejection Under 35 USC 103

Claims 1-4, 6, 7, 11 and 12 stand rejected under 35 USC 103 as being obvious over Edwards et al. (US Patent 5,536,240) in view of Singh (US Patent 6,599,237). This rejection is respectfully traversed.

The Examiner states that Edwards et al. teaches a catheter probe 182, the elongated body of the catheter probe having a longitudinal bore and a catheter tube 54 having a proximal sharp end. The catheter tube is to be inserted through the longitudinal bore of the elongated body and through the urethral wall. The Examiner admits that Edwards et al. does not teach the use of a urethral probe.

The Examiner relies on Singh to teach a urethral probe which accommodates other surgical instruments. The Examiner states that this sheath acts like a protective lining for the body opening through which it is passed. The catheter probe can be inserted and removed by being passed into the body through the lumen of the sheath. The Examiner feels it would have been obvious to use a urethral probe as taught Singh with a catheter probe of Edwards et al.

Applicants submit that claim 1 is not obvious over this combination of references. Applicants have now added the limitation that the urethral probe is made of a material to be perforated by the proximal sharp end of the catheter tube. Applicants submit that the combination of these two references does not teach this feature.

Singh teaches a closed urethral probe which is intended to be inserted until it is within the prostate gland. The probe is fixed within the bladder using an inflatable balloon system 24 in order to allow the examination of the complete urethra. Singh does not suggest the insertion of a medical tool such as radioactive seeds through the circumferential wall of the probe and the urethral wall until it is within the tissue of the prostate gland.

Applicants submit that Singh only teaches a urethral probe which facilitates the insertion of another tube since it clearly depicts rupture lines which allow for enlargement of the urethral probe during the insertion of a tool having a larger dimension in diameter. Singh does not disclose the possibility of inserting the catheter tube with a sharp proximal end through the urethral probe and the urethral wall within the prostate gland at any position, thereby allowing the insertion and placement of radioactive seeds at any location within the gland.

Accordingly, Applicants submit that Singh et al. does not teach the new language added to claim 1 that the urethral probe is made of material to be perforated by the proximal sharp end of the catheter tube. Applicants submit that this feature is also not shown by Edwards et al. According Applicants submit that claim 1 is allowable.

Claims 2-22 depend from claim 1 and as such are also considered to be allowable. In addition, each of these claims recite other features that make them additionally allowable.

Claim 5 stands rejected under 35 USC 103 as being obvious over Edwards et al. and Singh and further in view of Shiber (US Patent 5,135,531). Claims 8, 10, 18 and 19 stand rejected under 35 USC 103 as being obvious over Edwards et al. and Singh and further of Kindlein et al. (US Patent 6,454,696). Claim 13 stands rejected under 35 USC 103 as being obvious over Edwards et al. and Jagpal (US Patent 5,257,979) and further in view of Webster (US Patent 5,569,220). Claims 14-17 stand rejected under 35 USC 103 as being obvious over the combination of Edwards et al., Jagpal, and Webster and further of Tiller et al. (US Publication 2003/0091641). Claims 20 and 21 stand rejected under 35 USC 103 as being obvious over the combination of Edwards et al. and Singh and further of Bradshaw et al. (US Patent 5,139,473). Claim 22 stands rejected under 35 USC 103 as being obvious over the combination of Edwards et al. and Singh and further in view of Hung et al. (US Patent 6,391,012). These rejections are respectfully traversed.

The Examiner has cited a number of additional references in order to teach various limitations found in the dependent claims. Applicants submit that these claims remain allowable based on their dependency from allowable claim 1. Thus, the Shiber reference has been cited to show a drive means, the Kindlein et al, reference has been cited to show a wire and energy

emitting source, the Jagpal reference teaches a urethral probe, Webster teaches a flexible catheter reinforced mesh, Tiller et al. teaches a variety of materials, Bradshaw et al. teaches the use of radioactive energy sources and Hung et al. teaches a method using an energy emitting source including an antenna. Applicants submit that even if these reference are combined with Edwards et al. and Singh, these claims remain allowable.

Furthermore, it is noted that the rejection of claim 13-17 do not include the Singh reference. Applicants submit that since these claims depend from claim 1 it is necessary to include the Singh reference as part of this rejection.

Conclusion

In view of the above remarks, it is believed that claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse Reg. No. 27,295 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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